

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FREDERICK SUMMEY,)	
)	
Petitioner,)	
)	
v.)	No. 4:06CV01741 TCM
)	
JOSEPH GUNJA,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before the Court upon the motion of Frederick Summey, an inmate presently confined at the Medical Center for Federal Prisoners located in in Springfield, Missouri (MCFP-Springfield), for leave to commence this action without payment of the filing fee [Doc. #2]. Also before the Court is Summey's motion to appoint counsel [Doc. #3]. Based on the information provided with the motion to proceed in forma pauperis, petitioner will be granted leave to proceed in forma pauperis.

The petition

Petitioner asserts that he was "sentenced for violations of the Federal Criminal Code to a term of Life Without Parole on February 7, 1989." The petition does not state in which federal court petitioner was convicted. A review of this Court's records indicate that the conviction did not occur in

this Court. Petitioner further asserts that he has been denied due process of law in connection with an application for "Compassionate Release pursuant to 18 U.S.C. § 3582(c)(1)(A)." Specifically, petitioner appears to assert that he has been denied the opportunity to present a request for a motion for "compassionate release" under 18 U.S.C. § 3582(c)(1)(A) to the Warden at MCFP-Springfield.

Discussion

The instant petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 should be dismissed. Under the law of this Circuit, habeas corpus jurisdiction under § 2241 requires that the district court have jurisdiction over petitioner's custodian. See e.g. Braden v. Thirtieth Judicial Circuit Court, 410 U.S. 484, 495 (1973); Lee v. United States, 501 F.2d 494, 501 (8th Cir. 1974). Both petitioner and his custodian are at the MCFP-Springfield. Neither petitioner nor his custodian are within the territorial jurisdiction of this Court. Therefore, the instant action should be dismissed.

In accordance with the foregoing,

IT IS HEREBY ORDERED that petitioner's motion to proceed in forma pauperis [Doc. #2] is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk shall not issue process or cause process to issue upon the petition because it will be dismissed.

IT IS FURTHER ORDERED that petitioner's motion to appoint counsel [Doc. #3] is **DENIED** as moot.

An appropriate order shall accompany this memorandum and order.

So Ordered this 30th Day of March, 2007.

A handwritten signature in black ink, appearing to read "E. Richard Webber", written over a horizontal line.

E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE